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SUMMARY RECORD OF THE 3rd MEETING

Held at the Palais des Nations, Geneva,
on Wednesday, 29 January 1992, at 10 a.m.

Chairman: Mr. SOLT (Hungary)

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The meeting was called to order at 10.10 a.m.

STATEMENT BY THE DEPUTY MINISTER FOR FOREIGN AFFAIRS OF PORTUGAL

1. The CHAIRMAN invited the Deputy Minister for Foreign Affairs of Portugal to address the Commission.

2. Mr. CRUZ (Portugal), speaking on behalf of the European Community and its member States, said that the European Community hoped that the enlargement of the Commission would strengthen both the acceptance of a common endeavour to respect human rights and the recognition of the responsibility of the international community and individual States to ensure observance of those rights and to raise public awareness of human rights concerns, at both the national and international levels. Firmly convinced as it was of the value of meaningful cooperation and solidarity in promoting freedom, justice and peace in the world, the Community refused to qualify as interference in the internal affairs of States the expression of concern about violations of human rights in any country in which such acts occurred. Indeed, the rapid pace of world events during the previous year had shown the increasing need for vigilance and respect for human rights on the part of all Governments.

3. The European Community believed that promoting and safeguarding human rights was a major factor in international relations and it had recently confirmed and reinforced its commitment to the realization of that objective within the framework of the Treaty on European Union. It also attached special importance to the positive achievements to date within the United Nations.

4. The international system of human rights had evolved over the previous decades as a universally binding set of principles aimed at protecting human rights and promoting greater awareness and commitment among Governments and peoples so as to ensure its implementation. The Universal Declaration of Human Rights was recognized as a basic document of reference and served as a framework for the adoption of new instruments in the field of human rights. The adoption of such instruments was not a simple declaration of intent, but expressed the will of Governments to assume, through ratification or accession, the legal obligation to ensure and respect the individual rights of those under their jurisdiction.

5. The Community welcomed the increase in the number of States which had acceded to the most important human rights instruments and, in particular, to the recent Convention on the Rights of the Child, which reflected, in the diversity of the various legal systems that had inspired its provisions, a common political will to ensure an effective protection of the rights of children. The Convention, moreover, illustrated the universal character of human rights as a common standard of achievement for all peoples and all nations.

6. Human rights were indivisible and the protection and promotion of one category of rights could never exempt States from the protection and promotion of another category. Neither the lack of social and economic development, nor any persuasion or ideology could justify the denial of fundamental human

rights. Conversely, the increased awareness by the international community of its responsibility to provide a climate of sustainable development worldwide encouraged universal respect for human rights and fundamental freedoms.

7. It was within that framework that the European Community had recognized the important role played by human rights and democracy in achieving balanced and sustainable development. Indeed, respect for human rights, the rule of law and effective democratic institutions created the adequate environment for improving the well-being of the individual by rendering possible meaningful participation in the development process.

8. The promotion of human rights was therefore one of the cornerstones of the Community's policy of cooperation with and assistance to other countries. That policy was also designed to emphasize the value of human rights and the central place of the individual as an actor in and beneficiary of the development process.

9. While the Community welcomed the positive trends towards democratization and political pluralism currently occurring in parts of Eastern Europe, Latin America and Africa, flagrant and systematic violations of human rights and fundamental freedoms still persisted in several parts of the world, thereby posing a threat to international peace and security.

10. The Community was also concerned at the growing sentiments of intolerance and xenophobia manifested in Europe and other parts of the world, and it had decided to deal with those phenomena through the appropriate legal national and international institutions in order to preserve and promote Europe as a continent governed by the rule of law.

11. In the light of its permanent duty to be vigilant with regard to human rights violations, the European Community and its member States intended to raise under the relevant items of the Commission's agenda the question of the violations of basic human rights in such areas as Yugoslavia, Burma, the occupied Arab territories and East Timor, in the hope that focusing attention on those situations would help put pressure on Governments to improve their behaviour.

12. The process of standard-setting had been essential to the establishment of a legal framework for the protection and promotion of human rights. Effective implementation mechanisms were also indispensable in order to ensure the full enjoyment of the rights recognized by the international instruments. In that connection, an important role was played by the treaty bodies, whose proper and effective functioning was essential for the enhancement of human rights and the awareness of individual Governments.

13. The Community looked forward to the preparatory meetings and the future decisions of the 1993 World Conference on Human Rights, which would undoubtedly contribute to a deeper respect for human rights and to the enhancement of the existing implementation mechanisms.

14. For its part, the Commission had also progressively established meaningful procedures to strengthen the system of protection of human rights, thus reflecting its growing importance and the confidence of the international community in its work. Special rapporteurs and working groups of independent experts provided updated reports and took urgent action on situations of particular concern. Their role was of the utmost importance, since they ensured that human rights violators did not escape criticism and encouraged the more effective implementation of human rights standards.

15. Through the programme of advisory services, a system of technical assistance had been set up to help Governments in their efforts to promote a deeper awareness of the principles of human rights, while strengthening the transitional process towards democracy and the rule of law. That system of advisory services and technological assistance should not, however, be used as an excuse to violate human rights.

16. In view of such goals, the European Community recognized the key importance of the Centre for Human Rights, which could play a vital role only if it was provided with sufficient staff and resources. The Community would continue to follow that issue actively in the light of the relevant resolutions adopted by the General Assembly.

17. The valuable procedures he had mentioned could, however, function effectively only with the full cooperation of Governments, in the light of the solemn obligation of all States Members of the United Nations to safeguard human rights. All Governments should also respect the work of the non-governmental organizations dealing with human rights and should allow them free access to information and permit them to distribute freely information on human rights. The commitment of the NGOs to the cause of human rights was of great value and they represented an indispensable partner in the process of safeguarding fundamental rights and freedoms.

18. In that context, the Community wished to pay tribute to human rights defenders, who were all too often the first victims of the arbitrary treatment they denounced. The Community also wished to underline the increasingly important role of national institutions in the promotion of human rights and the need to ensure their independence and effective action.

19. The ultimate responsibility for the protection and promotion of human rights, however, lay with the Member States of the United Nations system and, more specifically, with the members of the Commission on Human Rights.

20. In conclusion, he wished to pay tribute to the role played by the former Secretary-General, Mr. Pérez de Cuéllar, in the promotion and defence of human rights. The European Community was also conscious of the fact that the new Secretary-General, Mr. B. Boutros Ghali, shared his predecessor's concerns in the field of human rights and was determined to put that issue at the core of the Organization's activities. The European Community and its member States, in cooperation with other members of the international community, offered their full support for the enhancement of those fundamental values.

QUESTION OF THE VIOLATION OF HUMAN RIGHTS IN THE OCCUPIED ARAB TERRITORIES, INCLUDING PALESTINE (agenda item 4) (continued) (A/46/65, 282 and 522; E/CN.4/1992/6 and 7)

THE RIGHT OF PEOPLES TO SELF-DETERMINATION AND ITS APPLICATION TO PEOPLES UNDER COLONIAL OR ALIEN DOMINATION OR FOREIGN OCCUPATION (agenda item 9) (E/CN.4/1992/11)

21. Mr. MARTENSON (Under-Secretary-General for Human Rights), introducing agenda item 9, recalled that, at its forty-seventh session, the Commission had adopted a number of resolutions under the item, which had been on its agenda since 1975. References to the resolutions were to be found in the annotations to the provisional agenda (E/CN.4/1992/1/Add.1), and a report of the Secretary-General on the question of the situation in occupied Palestine, requested in Commission resolution 1992/6, was contained in document E/CN.4/1992/11.

22. Since 1988, the Special Rapporteur on the question of the use of mercenaries as a means of violating human rights and impeding the exercise of the right of peoples to self-determination had produced a set of definitions of mercenary activities, and had reported on the status of international law on the subject, referring to article 47 of Additional Protocol I to the Geneva Conventions of 1949, the Convention for the Elimination of Mercenaries in Africa, adopted by the Organization of African Unity in 1977, and the International Convention adopted by the General Assembly on 4 December 1989. He had also reported on rules and regulations deriving from the legislation in effect in various States.

23. The attention of the Commission was drawn to resolution 16/89 of 16 December 1991, in which the General Assembly, inter alia, reaffirmed that the use of mercenaries and their recruitment, financing and training were offences of grave concern to all States and violated the purposes and principles enshrined in the Charter of the United Nations. The resolution also called upon all States to extend humanitarian assistance to victims of situations resulting from the use of mercenaries, and condemned the continued recruitment, financing, training, assembly, transit and use of mercenaries, as well as other forms of support to mercenaries, for the purpose of destabilizing and overthrowing the Governments of African States and of other developing States and fighting against the national liberation movements of peoples struggling for the exercise of their right to self-determination. The General Assembly also reaffirmed that to use channels of humanitarian and other assistance to finance, train and arm mercenaries was inadmissible, and requested the Special Rapporteur to report to the General Assembly, at its forty-seventh session, on the question of the use of mercenaries.

24. Mr. BERNALES BALLESTEROS (Special Rapporteur on the question of mercenaries) said that, in conformity with his mandate under Commission resolution 1991/7, he had submitted a report on the use of mercenaries as a means of violating human rights and impeding the exercise of the right of peoples to self-determination (E/CN.4/1992/12).

25. The year 1991 had seen the beginning of some significant changes in respect of mercenary activities, within the context of increased international cooperation and the general movement towards political negotiations. In that connection, mention should be made of the Lisbon Agreements, which put an end to the long-standing conflict in Angola between the Government forces and UNITA. Those Agreements, which were being respected by both parties, would secure the demilitarization of the country and the restoration of democracy. Elections were due to be held in September 1992, and the Special Rapporteur had been invited by the Government of Angola to visit the country.

26. It was a matter of regret that there had been no substantive change in the armed conflict in Mozambique between the Government and RENAMO. Negotiations had produced limited results that remained fragile. In the circumstances, it could only be said that the war was continuing and that mercenaries continued to be present.

27. Referring to South Africa, he said that due recognition must be given to the efforts of the Government, which had begun a democratization process and aroused positive expectations. It was too early to say, however, that the process was irreversible. On the one hand, certain white groups had established paramilitary units, that included mercenaries, and, on the other, mistrust and tension between the various ethnic groups still remained. The international community must remain vigilant until racial discrimination was entirely eliminated and the current regime replaced by one compatible with human dignity.

28. A particularly welcome development was the Peace Agreement in El Salvador which, thanks to a successful intervention on the part of the United Nations in Central America, had put an end to 11 years of conflict. No further reports had been received of mercenary activities in El Salvador, or in Guatemala, where a political dialogue had been initiated with a view to resolving the conflict there. It was to be hoped that the process of cooperation and integration would finally dispose of the problem of mercenaries and foreign intervention in Central America.

29. It was regrettable that only four States had so far completed the process of ratifying the International Convention against the Recruitment, Use, Financing and Training of Mercenaries, and that it had been signed by only 14 States. The Convention could enter into force only when 22 Member States had ratified it or acceded to it.

30. Mention should also be made of the Commission resolution 1991/29 on the consequences on the enjoyment of human rights of acts of violence committed by armed groups that spread terror among the population and by drug traffickers. From the information he had received, it appeared there was an increasing and dangerous tendency for armed groups, drug traffickers and mercenaries to terrorize local people and deprive them of the enjoyment of their human rights.

31. It was universally accepted that States were obliged to respect, protect and promote human rights and that that obligation could never be suspended or limited even if a State had to confront groups which were engaged in a war against it and against society. Nevertheless, that obligation also applied to individuals and groups within a country.

32. The Commission should reaffirm its condemnation of mercenary activities, taking into account the need to respect the principle of the sovereignty and self-determination of peoples. The Commission should also recommend that States make the recruitment of mercenaries a crime under their domestic legislation and that it should be regarded as an aggravating circumstance if mercenaries were trained within their territories and if they were involved in activities such as drug trafficking or arms dealing. States should also be recommended to conclude the necessary extradition agreements.

33. As for Angola, the favourable developments in that country should be adequately supported so as to ensure the success of the peace agreements and of the political process of democratization. Adequate support should also be given to the negotiations taking place in Mozambique.

34. Special attention should be paid to developments in other African countries, particularly Liberia and Zaire, and efforts should be made to guarantee sovereignty, self-determination and democracy there, since reports had been received of the activities of mercenaries.

35. In conclusion, he said that the Commission should not neglect the implications of its resolution 1991/29, which referred to the question of acts of violence carried out by armed groups engaged in terrorist activities and by drug traffickers. The Centre on Human Rights might be asked to consider that question.

36. Mr. ERMACORA (Austria) said that the negotiating process initiated in Madrid could provide a realistic opportunity to achieve a peaceful settlement in the Middle East. The decisions which the Commission would finally take on that issue should reflect the importance of the negotiations currently under way, although they had yet to achieve any change in the unsatisfactory situation regarding human rights in the occupied territories.

37. His delegation had often pointed out the fact that, under the pretext of "maintaining security", the occupying Power had infringed the human rights of Palestinians by means of curfews, the threat of deportation, and the confiscation of property and land. His Government appealed once again to the authorities in Israel to reverse their decision to deport 11 Palestinians. If Israel were to comply with its obligations under international law, it would send a powerful message of goodwill to the population of the occupied territories and to the international community at large.

38. The persistent non-application of the Fourth Geneva Convention in the occupied territories had led to the idea of convening a meeting of the High Contracting Parties to that Convention. In his Government's view, such a meeting would be both timely and appropriate. The Convention should not, however, be regarded as the only basis for Israel's obligations towards the Palestinian population in the occupied territories since it provided a certain range of protection only. His Government believed that the Government of Israel should do much more and should grant Palestinians the possibility of exercising their right of self-determination and of developing their economy in freedom. The lack of self-government and a proper legal system also had its effect on economic life. His Government was particularly concerned at the deprivation of water resources in the occupied territory.

39. At the same time, his delegation wished to appeal to Palestinian leaders in the occupied territories to refrain from further use of violence in the intifada. Palestinians should demonstrate their commitment to a peaceful solution by showing restraint; violent means could only lead to further repression and misery.

40. The establishment of Israeli settlements in the occupied territories gave reason for particular concern. Such settlements not only violated article 9, paragraph 6, of the Fourth Geneva Convention but were also a serious and grave impediment to the search for a fair and lasting solution to the Middle East problem. He urged the Israeli authorities to curtail the construction of new housing units in Silwan (East Jerusalem) and to ensure that the confiscated homes in Silwan were returned to their Palestinian owners.

41. The Iraqi aggression against Kuwait, and the subsequent expulsion of many thousands of Palestinians from that country, had also provided a further justification for protecting the human rights of Palestinians in the occupied territories. In that connection, he wished to commend the work of UNRWA, an agency which his Government was actively supporting.

42. Mr. MASRI (Syrian Arab Republic) said that the Government of Israel continued to defy international public opinion and the resolutions of the General Assembly and the Commission on Human Rights and the Security Council by pursuing its policy of curfews, expropriation and deportation in the occupied territories. The United Nations had repeatedly called on Israel to refrain from human rights violations in the occupied territories, in conformity with the Geneva Conventions of 1949. Israeli practices, and in particular the policy of settlement in the occupied territories, were deeply detrimental to the fundamental freedoms of the Palestinian people.

43. Such practices included the policy of annexation of the occupied territories of the Syrian Golan and of the holy city of Jerusalem; the repressive measures against the populations of the occupied territories, such as curfews, isolation of the population, expropriation of their land, installation of Jewish settlements, and the division of springs and watercourses for the benefit of such settlements; aggression, humiliating treatment and arbitrary executions; and legislative and administrative measures aimed at modifying the status of the occupied territories and their demographic, cultural and social characteristics.

44. In its twenty-third report (A/46/522) the Special Committee referred to the grave violations of human rights in the occupied Arab territories and concluded, inter alia, that "the human rights situation of the Palestinians and other Arabs in the occupied territories has deteriorated to such an extent that this population is now reaching a state of mere survival" (para. 441).

45. The report also concluded that "repressive measures, raised to the status of an official policy, have continued to be implemented by the Israeli occupying authorities to quell the resistance of the Palestinian and other Arab civilians against occupation" (para. 444).

46. The Special Committee further stated that "the overall picture drawn from the evidence and information examined by it ... reveals a further deterioration in the level of enjoyment of basic human rights and fundamental freedoms, which has dangerously increased the already considerable physical and psychological stress endured by the Palestinian people and other Arabs of the occupied territories" (para. 464).

47. At the forty-sixth session of the General Assembly, the Syrian Minister for Foreign Affairs had stressed the urgent need to put an end to the repressive practices of Israel in the occupied Arab territories, which constituted a violation of human rights and had urged the United Nations to call for an immediate end to those violations and for the liberation of those Arab citizens of the occupied Syrian Golan, who were arbitrarily detained.

48. The origins of the tensions in the Middle East lay in the continued Israeli occupation of occupied Arab territories, its expansionist and colonialist policy, its violation of the human rights of the Arab populations in those territories, its failure to observe the provisions of the Fourth Geneva Convention and its refusal to acknowledge international legitimacy. It had, thus, made no attempt to implement the resolutions of the Security Council, the General Assembly, and the Commission on Human Rights, which called upon it to put an end to those practices that constituted violations of human rights, to refrain from establishing Jewish settlements in the occupied territories and to withdraw from them and to respect the right of the Palestinians to self-determination.

49. As long as the occupation continued, violations of human rights would also continue and international peace and security would continue to be threatened.

50. Mr. AZIKIWE (Nigeria), speaking on agenda item 4, said that, as at its previous session, the Commission was, regrettably, still faced with the problem of widespread abuses and violations of human rights in the occupied Arab territories. His delegation had noted with concern the conditions under which the inhabitants of those territories lived, as described in the various reports, and called on the Israeli authorities to comply with the relevant resolutions of the Security Council and the General Assembly and to put an end to the practice of detention without trial, punitive destruction of the homes of suspected Palestinian activists, and the deportation of inhabitants. His delegation further urged all Member States to call for an end to human rights violations in the occupied territories, which should be perceived as a clear threat to international peace and security.

51. Israel was not, however, the only party to the conflict and the solution did not therefore lie with Israel alone. The Middle East question touched upon fundamental and basic rights which required the cooperation of all parties. There was, on the one hand, the inalienable right of the Palestinians to a homeland and to the withdrawal of Israel from all occupied lands and, on the other, the right of Israel to exist in peace and within secure borders. In the current era of growing peace and positive international cooperation, the time had come to find a just and lasting peace for the peoples of the Middle East.

52. His delegation welcomed with enthusiasm the commencement of the Middle East Peace Conference in Madrid and Washington, but was disappointed at the slow progress being made on account of procedural wranglings. Only if the parties were ready to address realistically all aspects of the problem could the prevailing atmosphere of mistrust, fear and violence give way to an era of peace, confidence-building, security and the restoration of national rights to the peoples of the Middle East.

53. Each year, delegations had been ritually recounting the cycle of human rights abuses and violence in the occupied territories. It was therefore imperative for the parties concerned to move forward and for Israel, in particular, to prove that the international community was right to repeal General Assembly resolution 3379 (XXX) of 1975, which equated zionism with racism.

54. Turning to agenda item 9, he observed that the right to self-determination was a fundamental and inalienable one, which was not only enshrined in the Charter but also given pride of place in both the International Covenants on Human Rights. His delegation was therefore deeply disturbed that, despite the high priority accorded to it by the international community, the right to self-determination had continued to elude millions of people in many parts of the world, particularly South Africa, the occupied Arab territories, Western Sahara and Afghanistan. It called on the Commission to reject and condemn all activities and practices likely to impede the enjoyment by all peoples of the right to self-determination, including aggression, foreign occupation, colonial domination, military intervention and mercenary subversion.

55. His delegation was extremely pleased that the coordinated efforts of the international community had reversed the Iraqi occupation of Kuwait and restored the right of self-determination to the people of that country. It also noted with satisfaction the developments at the Paris peace talks on Cambodia, which had culminated in the formation of an all-party Transitional Government of National Unity to pave the way for the restoration of peace, democracy and self-determination to the sorely tried people of that country.

56. His delegation also noted the efforts of the United Nations to resolve the problem of western Sahara and hoped that all the parties concerned would handle the issue with sincerity and honesty, so that the continuing violence, mistrust and insecurity in the area would come to an end.

57. The struggle of peoples for their right to self-determination, independence, territorial integrity, national unity and liberation from apartheid and other forms of colonial domination were legitimate aspirations which must be supported and encouraged in order to guarantee international peace, security and stability. The alternative to the enjoyment of the right to self-determination was violence, destruction and lawlessness, a price that was far too high to pay.

58. Mr. COTTON (Australia) said that the promotion of self-determination, a fundamental activity of the United Nations, had added significance at the current session of the Commission, the past year having seen the attainment of independence by more States than in any year since the heyday of the decolonization period.

59. Australia welcomed the independence of the Baltic States, of the republics of the former Soviet Union and of Croatia and Slovenia. It saluted the courage, determination and patience of the peoples of the former Soviet Union and their commitment to democratic principles, which would enable the hard-won gains of recent years to be consolidated.

60. Concerning Yugoslavia, his delegation urged the leaders of all the parties to the conflict to demonstrate a readiness to settle their differences by peaceful means. The international community had a continuing responsibility to help resolve the conflict and to promote efforts to ensure that minority rights, territorial disputes and succession questions were settled peacefully and justly.

61. His Government welcomed the conclusion in October 1991 of agreements that offered the Cambodian people a real prospect of peace and freedom. The Cambodian people must elect their leaders in free and fair elections. The implementation of the agreement would require the wholehearted assistance of the international community. Australia was prepared to continue helping in whatever way it could, including through the provision of personnel for the United Nations military and civilian operations in Cambodia.

62. The right to self-determination was a right of peoples not of Governments or States, and it should not be misappropriated by Governments in an attempt to avoid legitimate international scrutiny of their human rights performance.

63. His Government, which had consistently expressed support for a settlement of the problems of the Middle East on the basis of Security Council resolutions 242 (1967) and 338 (1973), wholeheartedly supported the peace process that had begun on the Middle East. It would be tragic if that historic opportunity were lost. Australia's policy was built around two premises: a total commitment to Israel's right to live within secure and recognized borders and recognition of the right to self-determination of the Palestinian people, including the right, if they so chose, to independence and the possibility of their own independent State.

64. His delegation remained concerned at the continuing violence by both sides and by Palestinians against Palestinians in the occupied territories and at the use of excessive force against Palestinian demonstrators and deportations from the occupied territories. Israel's security problems notwithstanding, it must accept the de jure applicability of the Fourth Geneva Convention in the occupied territories and refrain from measures in violation of that instrument.

65. Realization of the right to self-determination was not limited to the process of decolonization or to ending foreign occupation. It also entailed the right of all peoples and individuals within each national State to participate fully in the political process by which they were governed. Consequently, his Government had welcomed the consolidation of democratic institutions in Latin America, the sudden and unexpected flowering of democracy in Central and Eastern Europe and steps towards more democratic and representative institutions and processes in many parts of Africa and Asia. It saluted the many brave advocates of human rights and democracy who had paved the way for those changes.

66. Although the general trend was positive, there had also been set-backs, one of the most serious having occurred in Myanmar, where the clear desire of the people for a democratic system of government had been blocked by a military regime. More recently, in Algeria an electoral process had been interrupted. In some countries, Governments still refused to embark upon meaningful democratic political change.

67. Better observance of the right to self-determination could also help alleviate tensions within countries. In many countries, ethnic or indigenous minorities were seeking to assert their identities, preserve their language, culture and traditions and achieve greater control of their own affairs. In some cases, demands were being made for self-management, autonomy or even separate statehood. If the realization of the right to self-determination was seen only in terms of attainment of national independence, there was little prospect of a peaceful solution to many of those demands. In the view of his delegation, the concept of self-determination included the right of all peoples, whether as sovereign States or as ethnic or cultural minorities, to determine their own future and manage their own affairs to the fullest extent possible, consistent with the rights and freedoms of others. That did not exclude the possibility of the emergence of new independent nations. Through peaceful negotiation of demands and adequate political representation of minority groups, however, solutions could be found in most cases that did not require a redrawing of international borders. That would, in turn, require democratic processes and structures that were transparent and truly representative, as well as a willingness to respect the rule of law rather than resort to force and repression.

68. The Commission and its subsidiary bodies had a role to play in implementing that broad concept of self-determination. A draft declaration on minority rights was before the Commission for adoption. The Sub-Commission on Prevention of Discrimination and Protection of Minorities had begun a study which would explore peaceful and constructive solutions to problems involving minorities. His delegation commended the practical approach that the Special Rapporteur, Mr. Eide, was taking to that study. The Sub-Commission's Working Group on Indigenous Populations was also working on a draft declaration on the rights of indigenous peoples. Central to those activities was the need to ensure effective self-management and an appropriate degree of autonomy as an aspect of self-determination. The Commission and other United Nations bodies could also assist Governments in putting electoral processes and legal systems on a sound footing and establishing the necessary administrative and educational foundation.

69. Australia was no stranger to the challenge of achieving harmony in a situation of racial and ethnic diversity. It regarded with the utmost seriousness the task of bringing justice and dignity to the aboriginal and Torre Strait Islander peoples, the original inhabitants of the Australian continent. Self-determination, including the practice of self-management, was central to that task.

70. Australia was also a country of immigrants with a complex mix of ethnic backgrounds, cultures and religions. His Government's consistent approach had been that all Australians should be bound together in common endeavour, but not assimilated within a monoculture. Diversity should be encouraged within an agreed and harmonious political, social and cultural environment.

71. Mr. SENE (Senegal) said that the Palestinian question was at the heart of a crisis that posed a grave threat to peace and international security. The return of peace in the region was a prerequisite for improving the human rights situation there, enabling the Palestinian people to exercise its inalienable right to self-determination and guaranteeing the right of all the peoples and States in the region to live within safe and recognized borders.

72. In the meantime, however, the Commission must help the men, women and children of the region to put an end to the use of violence and brute force, which only served to stir up hatred and promote extremist positions while harming the chances of achieving peace.

73. His delegation welcomed the holding of the Middle East peace conference in Madrid, Washington and Moscow, a decisive step that had brought together around one table the representatives of the Arab countries, the Palestinians and the Israelis. Although that was a promising development, many obstacles still remained on the road to a peaceful settlement of the conflict.

74. His delegation reiterated the urgent need to provide protection for the civilian population in the occupied territories in accordance with the provisions of the Fourth Geneva Convention and the relevant resolutions of the General Assembly and the Security Council. It welcomed the devoted work of the specialized agencies, intergovernmental organizations and non-governmental organizations in providing humanitarian assistance to the population of the occupied Arab territories.

75. A comprehensive, just and lasting peace in the region would enable the countries of the Middle East to turn their efforts towards achieving development and progress. Any solution must recognize the right of the Palestinian people to self-determination and to a homeland. Confidence-building measures and improved security conditions, indispensable for all the parties to the conflict, would promote a climate conducive to a constructive dialogue on a peaceful settlement, which was essential to ensure respect for human rights in the region.

76. Mr. BLACKWELL (United States of America) said he wished to emphasize the historic nature of the Madrid Conference, the first step in almost half a century towards a truly comprehensive peace. Although difficult, the negotiations between Israel and its neighbours had laid the groundwork for further progress. The participation from the Arab world and elsewhere provided evidence of the hopes attached to those talks.

77. His Government was committed to negotiating a comprehensive peace settlement based on Security Council resolutions 242 (1967) and 338 (1973). The principle of territory for peace must be elaborated to provide for both the security and recognition of Israel and legitimate Palestinian political rights. Only resolutions that encouraged respect for human rights by all parties would promote the delicate peace process currently under way. It was not the time to use the negotiations as a platform for restating old positions. The parties must negotiate in a spirit of good will and sincerity.

78. There were many threats to peace. His Government was concerned about a number of Israeli practices in the occupied territories, including excessive use of force, deportations, arbitrary administrative detention and the demolition of homes as collective punishment. The violence directed against Israelis and Palestinian violence against other Palestinians also constituted a threat to the peace process.

79. His Government strongly opposed and had repeatedly urged suspension of the continued Israeli settlement activity in the occupied territories, another obstacle to peace. There was, however, no point in conducting a sterile debate as to whether the settlements were legal. Resolutions urging consideration by the International Court of Justice of that issue were a distraction that could undermine the peace process.

80. The United States remained deeply committed to all the people in the region, including the Palestinian people. For more than 45 years, it had been the largest contributor to the United Nations Relief and Works Agency for Palestine Refugees in the Near East, its contributions for the year 1991 having exceeded US$ 63 million. Since 1975 contributions by the United States to the programmes of private voluntary organizations in the West Bank and Gaza had exceeded $100 million.

81. It was incumbent upon all the members of the Commission to support the negotiation process currently under way and to take action that would allow the people of the region to move forward towards achieving their full rights as envisaged in the Universal Declaration of Human Rights.

82. Mr. PHEKO (Observer, Pan Africanist Congress of Azania) said that PAC condemned the attempts being made by some countries to remove South Africa from the list of territories to be decolonized. South Africa was the last bastion of colonialism in Africa. When self-determination and decolonization were being discussed, it should be remembered that the indigenous people of Azania, too, had been colonized and had lost their national sovereignty. It made no sense to welcome the regained independence of Estonia, Latvia and Lithuania while opposing the right to self-determination of the dispossessed African people of South Africa (Azania), a country that had been colonized much longer than the Baltic States.

83. Before 1909, there had been no country of "South Africa", but merely the four British colonies of Natal, Cape of Good Hope, Transvaal and Orange River Colony. By the South Africa Act of 1909, the United Kingdom Government had united the four colonies, but that did not mean that the country had been decolonized. The very colonial statute that had created "South Africa" had been a racist and colonialist one. It had excluded the indigenous Africans from ruling their own country, denying them the fundamental human right to vote.

84. The four British colonies in Azania had been united for the explicit purpose of ensuring that the white population would be strong enough to meet the danger of an uprising of the indigenous Africans. Another reason, of course, for the creation of colonial South Africa was the discovery of diamonds in 1867, followed by that of gold in 1886.

85. It had been argued that, because South Africa had joined the League of Nations in 1919 and the United Nations in 1945, it must be considered an "independent sovereign State". However, under article I, paragraph 2, of the Covenant of the League of Nations, certain colonies were entitled to become Members of the League. Thus pre-independence India had been a Member of both the League of Nations and the United Nations and the Philippines had joined the United Nations before it became independent in 1946. Consequently, South Africa's membership of the League of Nations and of the United Nations did not make that colony an "independent State", since membership of those organizations was not a decolonization process.

86. South Africa was an example of the monumental manipulation of international law by a colonial Power. It also demonstrated the degree of racism, kith-and-kin politics, and economic interests of those who perpetuated the lie that the Africans in South Africa were entitled to fight only against apartheid and not for their right to self-determination and independence.

87. A carefully orchestrated campaign was currently attempting to deceive the international community into thinking that there was change in South Africa which warranted the lifting of sanctions and other pressures against the racist colonial regime. That campaign was devoid of truth. In South Africa, there was no fundamental change on the issue of racist colonial rule. In fact, the change in South Africa was one of tactics and not of heart, and there was no intent to do justice to the colonized Africans.

88. Statements by prominent leaders of the apartheid regime made that clear. Mr. De Klerk had said that "The National Party has never been asked for a mandate to hand over power to ... anybody ... we are certainly not prepared to exchange one form of domination for another" and, on another occasion, that "majority rule is not suitable for a country like South Africa ... those who enjoy full political rights at present are not prepared to bow out apologetically from the stage of history". The so-called Constitutional Proposals for Participatory Democracy did not contradict any of those statements, and it should not be forgotten that the International Convention on the Suppression and Punishment of the Crime of Apartheid had declared that odious system of dehumanization and social degradation to be a crime against humanity.

89. South Africa would become an independent and sovereign State in international law only when the vast dispossessed indigenous majority of Africans regained control of their inalienable right to self-determination. Those people demanded the immediate decolonization of their country.

90. Mr. VITTORI (Pax Christi International) said that the satisfaction with which his organization had welcomed the adoption by the Sub-Commission in August 1991 of a resolution on the situation in the Palestinian and other Arab territories occupied by Israel had been mixed with sadness, because that resolution, like the others which had preceded it, had remained a dead letter. Moreover, the situation of the oppressed peoples had deteriorated since the Gulf conflict as a result of repeated curfews which had paralysed the Palestinians' economic and social life, while the possibilities of employment had decreased as a result of the massive influx of Jews from the

former Soviet Union. Those immigrants who wished to leave the country were unable to do so, unless they reimbursed the money they had received upon their arrival.

91. Encouraged by the Government, the number of settlements in East Jerusalem and in the occupied territories were increasing and the homes of Palestinians were being destroyed and their lands and water supplies appropriated. Far from taking account of the relevant resolutions of the United Nations, the Israeli Government, supported by the greatest Power in the world, was deliberately pursuing its fait accompli policy, designed to place the Palestinians in such a desperate situation that most of them would be obliged to leave their country.

92. His organization shared the concern expressed in a declaration by the Christian Churches in the Holy Land concerning the Israeli Government's policy towards the non-Jewish peoples and institutions under its administration. The signatories of the declaration had denounced the aggressive colonization policy of the Jewish organization Ateret Cohanim and the ambivalent attitude of the authorities in respect of the destruction committed by the settlers. The document also denounced the violations of the rights of the persons concerned and, in particular, the collective punishment which continued to be inflicted indiscriminately on Palestinian civilians.

93. He wondered how long the civilized world would wait before taking action and whether those who had previously allowed nazism to flourish thought that they could redeem themselves by confining themselves to ineffective protests against the unjustifiable policy of the Israeli Government. Efforts should at the very least be made to help those in Israel who were fighting for peace and justice. He wondered whether it was necessary to provide a guarantee of $10 billion to a Government which had almost been overthrown a few days previously by the opposition of 49 deputies demanding a halt to Jewish settlements in the occupied territories and somewhat greater realism in the peace negotiations.

94. In conclusion, he found it disturbing that the United Nations, which had been used to legitimize a war that had caused the death of hundreds of thousands of people, replaced a feudal monarch on his throne and left the aggressor on his throne also, should be kept away from the Peace Conference.

95. Ms. GRANGE (Amnesty International) said that the seriousness of the human rights violations in the Israeli occupied territories had not changed since the beginning of the intifada in December 1987, although the scale of those violations had varied.

96. In recent years, her organization had drawn attention to arbitrary killings of civilians, widespread punitive beatings and unfair trials before military courts. The Israeli authorities in the occupied territories systematically used interrogation practices which clearly amounted to torture or ill-treatment. Methods included beatings all over the body, often concentrated on sensitive areas; sleep and food deprivation while held in solitary confinement; prolonged shackling in painful positions; and confinement in small dark cells.

97. Under the Israeli military justice system in the territories, detainees were denied access to judges for 18 days and access to lawyers and family for much longer periods. Judges appeared reluctant to order investigations into allegations of torture or ill-treatment made by defendants in court. Prosecutors and judges also placed pressure on defendants to accept a plea bargain rather than ask for an investigation of allegations of torture or ill-treatment.

98. Following the publication in October 1987 of the report of the Landau Commission of Inquiry into the methods of investigation of the General Security Service, official secret guidelines for interrogators had been adopted. In its report, the Commission had said that methods of interrogation might include a moderate measure of physical pressure and had clearly endorsed slapping a suspect's face, or threatening him. Those methods constituted cruel, inhuman or degrading treatment or punishment and as such were absolutely forbidden by international law.

99. In May 1991, Major-General (Reserve) Rafael Vardi had been appointed to investigate allegations of violence against detainees by soldiers. In August 1991, he had recommended that responsibility for interrogating residents of the occupied territories should be transferred to non-military authorities, a recommendation which had not been implemented.

100. Three other official investigations into interrogation practices had been announced in May 1991, involving the General Security Service and the Ministry of Justice. In a statement to the High Court of Justice in November 1991, the Israeli Government had indicated that one such investigation had found that interrogators in Gaza Prison had deviated from the official guidelines during the period in which a Palestinian detainee had been tortured and killed in December 1989. Two interrogators had each been sentenced to six months' imprisonment after being convicted of "causing death by negligence" in connection with the case.

101. In another case, Mr. 'Abd al-Ra'uf Ghabin had been accused of being a member of the Popular Front for the Liberation of Palestine and had been detained without charge or trial between August 1990 and August 1991. He had said in an affidavit that he had been deprived of sleep continuously for periods of several days. The Israeli authorities had informed Amnesty International that his allegations had been thoroughly investigated and that "there had been no deviation from the accepted procedures for interrogations". The Israeli authorities had also said that Mr. 'Abd al-Ra'uf Ghabin had retracted most of his allegations and that others had been found to be baseless. However, he had categorically denied having withdrawn any of his allegations of torture and ill-treatment. Amnesty International was still seeking information on the details of that investigation.

102. Her organization believed that urgent measures of redress were needed. Anyone violating the international legal prohibition of torture and ill-treatment should be brought to justice and, if found guilty, punished appropriately.

103. Amnesty International welcomed Israel's ratification in October 1991 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. However, it was regrettable that the Israeli Government had at the same time decided, among other reservations, not to recognize the competence of the Committee against Torture to consider complaints from or on behalf of individuals under its jurisdiction. Her organization called for those reservations to be withdrawn.

104. Several hundred Palestinian residents of the occupied territories were held at any one time in administrative detention, without charge or trial. Although a two-step judicial review of detention orders was available, appeals by detainees took place weeks or months after the arrest. Crucial evidence about the reasons for detention was almost invariably withheld from detainees and their lawyers.

105. One such detainee was Sami Abu Samhadanah, who had been held in administrative detention almost uninterruptedly since September 1985. At his appeal hearings against such detention and deportation, the Israeli authorities had not made available any evidence to show that he had been involved in violence.

106. Her organization urged the Israeli Government to end the practice of administrative detention. While welcoming the ratification by Israel in October 1991 of the International Covenant on Civil and Political Rights, it viewed with great concern Israel's declaration that it was derogating from its obligations under article 9 to the extent that they conflicted with the state of emergency in force since 1948. She called on the Israeli Government to drop its derogation from that article and to review the appropriateness and necessity of maintaining a state of emergency.

107. Her organization fully recognized that violent as well as other methods of protests had been used by Palestinians in the occupied territories. Israeli soldiers and civilians had been killed, as had several hundred Palestinians suspected of collaborating with the Israeli authorities. Many such suspects had been tortured before being killed.

108. Amnesty International opposed deliberate and arbitrary killings by political opposition groups as well as the death penalty and extrajudicial executions carried out by Governments. It also condemned the torture and killings of prisoners by anyone. It called on those responsible, whether Palestinians, opposition groups or the Israeli Government, to stop such practices, which violated the most fundamental of human rights.

109. In conclusion, she said that Amnesty International hoped that the parties to the current negotiations would, in their endeavours, take full account of the statement in the Universal Declaration of Human Rights that "recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world".

110. Ms. REYES (Commission for the Defence of Human Rights in Central America (CODEHUCA)) said that her organization had always maintained the indivisibility of human rights. It was convinced that respect for human rights was possible

only in democratic regimes, the fundamental basis of which should be social justice with the genuine participation of civilian society and a deep respect for human rights in a context of relations of respect and international cooperation among all countries.

111. The history of Central America had been marked by painful episodes of violations of the sovereignty of its countries, the policy of United States interference being far removed from the principles enshrined in the Charter of the United Nations. Virtually all the countries of the area had suffered from the presence of the United States, and Nicaragua had been subjected to a covert war for 12 years with harmful consequences for its people. That aggression had been brought before the International Court of Justice, which had called upon the United States to compensate the people of Nicaragua, a claim which had been withdrawn by the current Nicaraguan Government as a result of United States pressure.

112. Her organization wished to draw special attention to Panama, which was still suffering the consequences of the United States military invasion in December 1989. The invasion and subsequent military occupation had resulted in the death of over 2,000 persons, many missing persons, mass graves, and the destruction by indiscriminate bombing of the property of 18,000 civilians. Two years after the invasion, many Panamanians were still living in refugee camps. The invasion had undermined the economy, causing losses amounting to some $2 billion and an increase in unemployment and underemployment. It was only fair that the United States should compensate those innocent victims for the damage done to them.

113. She drew attention to the fact that the occupying troops of the United States Government passed freely through Panamanian territory. Not only had areas returned to Panama as a result of international treaties been reoccupied, but bases and military camps had also been constructed in Santiago de Veraguas and Chiriqui. The legal conditions had been created, with the acquiescence of the State, for the gradual control of the country by the United States Government. That was illustrated by the signature of a treaty that permitted the United States to investigate all financial transactions carried out in Panama, on the grounds of alleged laundering of money from drug trafficking. Another example was the conclusion of bilateral agreements with the United States which imposed United States legislation and obliged Panamanians through legal means to recognize United States interference in the economic, political, social and diplomatic life of Panama.

114. Her organization drew attention to the fact that, since 20 December 1989, hundreds of trials had taken place without respect for the legal requirements of due process. That revealed an attitude of political vendetta, whether or not there was any justification. Moreover, United States agencies such as the FBI, without the assistance of Panamanian authorities, conducted investigations, carried out interrogations, collected evidence and drew up reports that were submitted to the Panamanians for use in taking the necessary action.

115. All those facts revealed the absence of a national rule of law and that the judicial system was operating under the control of the Government of the United States. That was a clear violation of international law,

of the principles of the Charter of the United Nations and the Human Rights Covenants - which had not yet been ratified by the United States - and of the resolutions and decisions of the Security Council. Moreover, it constituted a violation of the principle of the self-determination of peoples, which formed part of jus cogens, and was thus an obligation for all States.

116. Consequently, she asked the Commission to call on the Government of the United States to withdraw its occupation army immediately and to compensate the Panamanian State and people for the damage it had caused. The Commission should also set up a group of its members to carry out an on-the-spot investigation of the human rights situation in Panama.

The meeting rose at 12.55 p.m.